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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,032	12/20/2001	Douglas C. Meyer	68,143-008	2259
58982	7590	10/12/2006	EXAMINER	
CATERPILLAR/FINNEGAN, HENDERSON, L.L.P. 901 New York Avenue, NW WASHINGTON, DC 20001-4413			KRAMER, JAMES A	
			ART UNIT	PAPER NUMBER

3692

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,032

Applicant(s)

MEYER, DOUGLAS C.

Examiner

James A. Kramer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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DETAILED ACTION

In view of the Appeal Brief filed on 7/20/06, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

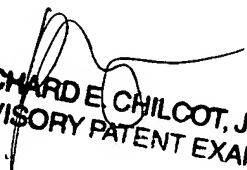
To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Richard Chilcot


RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-10, 32, 33, 36, 37, 39, 44-49, and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Brockman.

Regarding **claim 1**, Brockman discloses a method of improving records of inventory at a facility using a computer system, comprising: assessing a plurality of current inventory records associated with the facility (see S410 and S415); responsively identifying at least one discrepancy in at least one of the current inventory records using said computer (see S420); identifying at least one inventory process associated with said discrepancy (see S430); establishing a desired performance metric associated with said process (see S410); establishing an actual performance metric of said process in response to said discrepancy (see S415); comparing said actual and desired performance metrics (see S420); and establishing a plan to correct the at least one discrepancy in response to said comparison, the plan including a change to current inventory practices including one or more of adding an inventory process, modifying an inventory process or deleting an inventory process (see column 2, lines 28-35); and implementing the change to correct the at least one discrepancy (see column 2, lines 35-42).

Examiner notes that “determining whether products must be produced or picked from consignment inventory” clearly represents a plan for adding or modifying inventory processes.

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Regarding **claim 3**, Brockman discloses the step of modifying the at least one characteristic includes one of adjusting and adding the at least one characteristic to the at least one inventory record (see column 1, lines 37-42); **[claim 4]** the step of establishing a plan includes the step of reviewing an inventory process of the facility (see step S775; Figure 5B); **[claim 5]** the plan includes the step of improving an inventory practice (it is inherent that any change to the inventory would be for improvement); **[claim 6]** the plan includes the step of improving an inventory methodology (it is inherent that any change to the inventory would be for improvement); **[claim 7]** the inventory process is a receiving process (see step 710; Figure 5A); **[claim 8]** the step of assessing current inventory records includes the step of performing a warehouse audit (see column 3, lines 20-27); **[claim 9]** the step of assessing current inventory records includes the step of performing a location audit (see column 3, lines 20-27); **[claim 10]** the step of assessing current inventory records includes the step of performing a statistical test count (see column 4, lines 22-33); **[claims 32]** receiving a claim (report; see Figure 2, S435) associated with a part shipment (see S710 in Figure 5A), where said part is a part type and is associated with said inventory; and analyzing said claim (inherent); and establishing a plan to correct the at least one deficiency; and **[claims 33 and 39]** identifying a characteristic of a part in said inventory (for example, the type of product in inventory). It is noted that limitations of **claims 36, 37, and 44-49** are similar to other claimed addressed above in detail.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11, 42, 43, 50, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman in view of Official Notice (as evidenced by Bragg, Dobler, and Takao) .

Regarding **claim 11**, Brockman discloses all the limitations as set forth above but fails to explicitly disclose performing a statistical test count by defining a population and extrapolating data to achieve an inventory count.

The Examiner took Official Notice in the Final Office Action mailed 10/12/2005 that it was old and well known in the art at the time the invention was made to extrapolate total inventory data based on a predetermined sample. Further, Bragg is cited as factual evidence to support the Examiner's position of Official Notice (see pages 244-245 related to counting samples).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman with inventory count extrapolation as is well known in the art, because inventory extrapolation allows an organization to statistically determine inventory quantities in manner that is faster and more efficient than a complete physical count.

Regarding **claim 42**, Brockman fails to explicitly disclose relocating parts if the part is problem prone.

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The Examiner took Official Notice in the Final Office Action mailed 10/12/2005 that it was old and well known in the art at the time the invention was made to relocate parts that may be inadvertently lost (problem prone parts). Dobler is cited as factual evidence to support the Examiner's position of Official Notice (see pages 608-612 related to relocating/disposing of surplus inventory).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman to relocate problem prone parts as is well known in that art, because relocating problem prone parts to new location that is likely to reduce the problems associated with the part is advantageous to the part owner.

Regarding **claim 43**, Brockman fails to explicitly disclose identifying and recovering lost inventory.

The Examiner took Official Notice in the Final Office Action mailed 10/12/2005 that it was old and well known in the art to identify and recover lost inventory in response to a discrepancy. Bragg is cited as factual evidence to support the Examiner's position of Official Notice (see pages 241-243 related to counting).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman to identify and recover lost parts as is well known in that art, because identifying and recovering lost parts reduces the need of the part owner to reorder replacement inventory, wherein saving money by the part owner.

Regarding **claims 50-51**, Brockman fails to explicitly disclose analyzing a claimant's claim history associated with a part.

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The Examiner took Official Notice in the Final Office Action mailed 10/12/2005 that it was old and well known in the art to review a claimant's claim history to help expedite the acceptance or rejection of the claim, wherein claimants with few prior claims are likely sending valid claims. Takao is cited as factual evidence to support the Examiner's position of Official Notice (see paragraphs 0014, 0015, and 0027 related to customer measuring customer credibility). The use of claimant history reduces the claim audit costs by the part owner.

Claims 34, 35, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brockman in view of U.S. Patent Application No. US 2002/0072977 (hereinafter "Hoblit").

Brockman discloses all the limitations as set forth above but fail to explicitly disclose utilizing theft prone or problem prone characteristics in inventory analysis.

Hoblit teaches that inventory analysis can be generated based on theft prone or problem prone inventory (see paragraph #0021).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Brockman with the analysis of theft/problem prone inventory as taught by Hoblit, because considering theft/problem prone inventory will help reduce the chance of discrepancies based on theft or problems in the future.

Response to Arguments

Applicant has argued that Brockman fails to teach “establishing a plan . . . the plan including a change to current inventory practices including one or more of adding an inventory process, modifying an inventory process or deleting an inventory process.” Examiner respectfully disagrees. As pointed out in the rejection above Brockman teaches this feature, for example on column 2, lines 28-35. It is the Examiner’s position that when Brockman “determines whether the products must be produced or picked from consignment” the reference is establishing a plan, including a change to inventory practice including adding or modifying an inventory process.

Conclusion

Green is cited of interest for providing disclosure related to inventory management.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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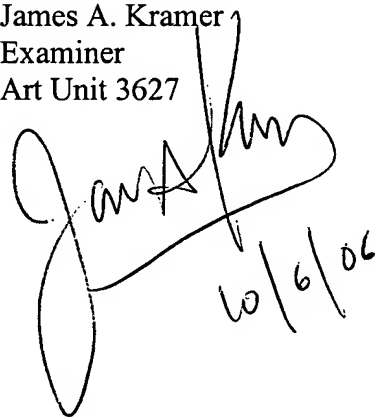
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272 6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jak
10/6/06

James A. Kramer
Examiner
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A handwritten signature in black ink, appearing to read 'James A. Kramer', is written over the printed name. Below the signature, the date '10/6/06' is handwritten.